

REMARKS

Claims 48-49, and 52-53 stand rejected under 35 U.S.C. § 103(a) as obvious over Jordan et al. (U.S. Patent No. 4,842,593) in view of Mesek et al. (U.S. Patent No. 3,683,916). This ground of rejection is respectfully traversed.

Claim 52 and 53 have now been canceled without prejudice. Newly added claim 58 is directed to biguanides comprising polyhexamethylene biguanide. Antecedent support for claim 58 is found in the specification on page 7.

Three criteria must be met to establish a prima facie case of obviousness: (1) there must be some suggestion or motivation to modify the reference or to combine reference teachings, (2) there must be a reasonable expectation of success, and (3) the prior art references must teach or suggest all the claim limitations. See MPEP § 2142 et seq.

In the Official Action, the Examiner states that Jordan et al. describes an absorbent article having a top sheet, a back sheet, and an absorbent core disposed between the top sheet and back sheet. The Examiner also states that Jordan teaches a pH control system comprising an acidic buffering agent component, and a non-toxic, non-irritating, non-volatile anti-microbial agent component (Col. 5, lines 48-54). Jordan discloses that the pH control system can be applied to the top sheet or on the absorbent core of the absorbent article (Col. 13, lines 11-35). The Examiner acknowledges that Jordan et al. does not teach an anionic surfactant attached to the top sheet of an absorbent article such as a diaper.

The Examiner has cited Mesek et al. as disclosing the treatment of a facing layer or top sheet with a wetting agent, such as an anionic surfactant, in order to modulate the amount of urine penetrating into the top sheet. However, Mesek et al. does not disclose an acrylic polymer for use as such a wetting agent. The claims of the present invention have now been amended in order to recite that the wetting agent is an acrylic polymer, support for which is found in the present specification at page 10, lines 3-7.

Although the Examiner points to the Jordan et al. reference as disclosing the use of biguanides as antimicrobial agents, the antimicrobial agents disclosed in the reference are actually bis-biguanides, and specifically chlorhexidine. These biguanides are aromatic

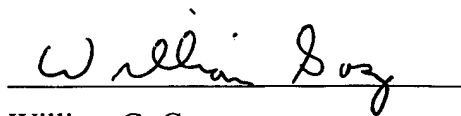
or cyclic compounds, and not linear or aliphatic compounds as claimed in the present invention. Antecedent support for this claim amendment is found in the specification at page 6, lines 15-25, with polyhexamethylene biguanide listed as a preferred linear biguanide at page 7, lines 10-21.

Consequently, in view of the above, there is no evidence that combining the references as proposed would result in the invention claimed in the present invention since the components claimed by applicant are not disclosed in the references. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). In connection with an obviousness determination, the motivation required to combine references to teach a feature must also show that the feature to be substituted is desirable in terms of the combination urged, not merely feasible. *Winner Int'l. Royalty Corp. v. Ching-Rong Wang*, No. 98-1553 (Fed. Cir. Jan. 27, 2000). Applicant maintains that a person of ordinary skill in the art would not be able to modify the Jordan et al. absorbent article with the Mesek et al. composition to prepare the present absorbent article.

In view of the aforementioned facts and reasons, the present application is now believed to overcome the remaining rejections in this application, and to be in proper condition for allowance. Entry of the foregoing amendment, and reconsideration and withdrawal of the rejections, is respectfully solicited. The Examiner is invited to contact the undersigned at the telephone number listed below to discuss any matter pertaining to the status of this application.

Dated: June 27, 2006

Respectfully submitted,

A handwritten signature in black ink, appearing to read "William Gosz", is written over a horizontal line.

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